Post-Pandemic Fiscal Reform in Indonesia: A Normative Legal Analysis of the Establishment of a Legislative Budget Office

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Abstract

This study examines Indonesia's fiscal reform in response to the Covid-19 pandemic through a normative legal analysis, evaluating the establishment of a Legislative Budget Office (LBO). It highlights the challenges faced due to economic disruptions caused by the pandemic and the government's fiscal measures to address these issues. Employing a multi-faceted research method, including statutory, conceptual, and comparative approaches, this paper analyzes Indonesia's legal frameworks, fiscal rules, and the effectiveness of its policy adaptations in managing budgetary responses during the crisis. The findings suggest that the establishment of an independent LBO could enhance budget transparency and resilience in Indonesia, ultimately contributing to more effective fiscal management in times of crisis.",

I INTRODUCTION

The Covid-19 pandemic has brought changes to many aspects: lifestyle, communication, education and economic activities.[1] The welfare of the community is also disrupted.[2] Many businesses have stopped operating, and the rate of unemployment has been increasing, causing an economic slowdown.[3] Therefore, the government should be active to maintain the welfare and safety of the people.[4]

The presence of Covid-19 affects overall Indonesia's economy.[5] This year's first-quarter economy was showing a growth of 2.97%, down from the previous quarter's 4.97%.[6] Even though this situation is at its weakest pace since the first quarter of 2001, Indonesia's economic growth in the first quarter is better compared to the other nations in the South East Asia region.[7] The performance of the Indonesian state budget in the first quarter has not been much affected by the Covid-19. Until May 2020, the realisation of state revenues reached Rp. 664,3 trillion (37,7% of the state budget; contracted 9% in the same period last year) with state expenditures Rp 843,9 trillion, leading to the deficit of Rp. 179,6 trillion or 1,1% of the Gross Domestic Product (GDP).[8]

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[1] Felix Ringel, 'Coronavirus: How the Pandemic Has Changed Our Perception of Time', *The Conversation* (Web Page, 28 May 2020) <http://theconversation.com/coronavirus-how-the-pandemic-has-changed-our-perception-of-time-139240>.
[2] Miranda Stewart and Peter Whiteford, 'The Government's Fiscal Tool Kit for COVID-19', *Austaxpolicy: The Tax and Transfer Policy Blog* (Blog Post, 6 April 2020) <https://www.austaxpolicy.com/the-governments-fiscal-tool-kit-for-covid-19/>.
[3] Jeff Borland, 'The next Employment Challenge from Coronavirus: How to Help the Young', *Faculty of Business and Economics* (Web Page, 20 April 2020) <https://fbe.unimelb.edu.au/newsroom/the-next-employment-challenge-from-coronavirus-how-to-help-the-young> ('*The next Employment Challenge from Coronavirus*').
[4] Stewart and Whiteford (n 2).
[5] Pier Van der Eng, 'Effect of Indonesia's COVID-19 Stimulus Packages - College of Business and Economics - ANU' (Web Page, 2 April 2020) <https://www.cbe.anu.edu.au/about/content/news/2020/indonesia%E2%80%99s-stimulus-packages/>.
[6] Gayatri Suroyo and Tabita Diela, 'Indonesia's First-Quarter GDP Growth Weakest since 2001, Recession Looms', *Reuters* (Online, 5 May 2020) <https://www.reuters.com/article/us-indonesia-economy-gdp-idUSKBN22H0AI>.
[7] Ibid.
[8] The Ministry of Finance of The Republic of Indonesia, *APBN Kita [Our Budget]* (June 2020) 7-10 <www.kemenkeu.go.id/apbnkita>.

The influence of this pandemic on the performance of the state budget is estimated to be truly visible in the second quarter.

It is undeniable that this pandemic has caused extraordinary problems which must be resolved with extraordinary steps as well. The government completely overhauled the 2020 state budget that had been designed long before the pandemic emerged through budget refocusing and reallocation.

This study employs a normative legal research method that focuses on analyzing positive legal frameworks, conceptual principles, and comparative policy practices to assess Indonesia's fiscal response during the Covid-19 pandemic. The statutory approach is used to examine relevant legal instruments—including Government Regulation in Lieu of Law No. 1/2020, Law No. 2/2020, taxation regulations, and fiscal relaxation measures that reshaped the state budget—as reflected in the policy shifts discussed throughout the paper. The conceptual approach explores fundamental notions such as fiscal space, fiscal rules, equality in taxation, the shift from the revenue function to the regulating function, and the broader idea of fiscal resilience, which together serve as the analytical foundation for understanding the government's policy direction. Meanwhile, the comparative approach assesses the fiscal responses of other jurisdictions—such as Australia, Singapore, the United States, and Malaysia—to identify common patterns, the scale of budgetary interventions, and global best practices. Through the integration of these three approaches, this study produces a comprehensive normative analysis of how Indonesia's legal and policy frameworks operate in times of crisis and provides a conceptual and comparative basis for formulating adaptive, resilience-oriented fiscal recommendations.

II ANALYSIS

More than 200 countries experience the economic downturn caused by the massive spread of Covid-19.[9] Economic pressures are expected to be the worst since the Global Financial Crisis.[10] For example, in just five weeks, the United States claimed unemployment increased by 26.5 million people.[11] Whereas in Asia, China's GDP growth in quarter one 2020 has contracted -6.8%, which is the lowest since 1992.[12]

Many countries relied upon tax and fiscal policy instruments in responding to the Covid-19 pandemic, including Indonesia.[13] At least 113 jurisdictions rely on tax instruments to respond to the impact of the COVID-19 outbreak.[14] The stimulus of corporate income taxes and personal income taxes are the most widely used tax instruments.[15] The purpose is to improve the cash flow of the businesses and household, supporting investment, and employment. Also, tax administration features such as extending tax return

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[9] Sunil Venaik, 'Coronavirus Hasn't Killed Globalisation – It Proves Why We Need It', *The Conversation* (Web Page, 6 May 2020) <http://theconversation.com/coronavirus-hasnt-killed-globalisation-it-proves-why-we-need-it-135077>.

[10] Gita Gopinath, 'The Great Lockdown: Worst Economic Downturn Since the Great Depression', *IMF Blog* (Blog Post, 14 April 2020) <https://blogs.imf.org/2020/04/14/the-great-lockdown-worst-economic-downturn-since-the-great-depression/>.

[11] Lusia Mutikani, 'Millions of Americans Join Unemployment Line as Coronavirus Savages Economy', *Reuters* (Online, 23 April 2020) <https://www.reuters.com/article/us-usa-economy-idUSKCN2250CS>.

[12] Zhang Lusha and Kevin Yao, 'China's 2020 GDP Growth Set to Sink to 44-Year Low as Coronavirus Cripples Economy: Reuters Poll', *Reuters* (online at 14 April 2020) <https://www.reuters.com/article/us-china-economy-poll-idUSKCN21W0XL> ('China's 2020 GDP Growth Set to Sink to 44-Year Low as Coronavirus Cripples Economy').

[13] *Tax and Fiscal Policy in Response to the Coronavirus Crisis: Strengthening Confidence and Resilience* (Report, Organisation for Economic Co-Operation and Development, 19 May 2020) 5 <http://www.oecd.org/coronavirus/policy-responses/tax-and-fiscal-policy-in-response-to-the-coronavirus-crisis-strengthening-confidence-and-resilience-60f640a8/> ('*Tax and Fiscal Policy*').

[14] Darussalam, Danny Septriadi and B Bawono Kristiaji, *Global Tax Policy Responses to COVID-19 Crisis* (Report, DDTC Fiscal Research, April 2020) 32 <https://ddtc.co.id/research/publications/quarterly-report/indonesia-taxation-quarterly-report-q1-2020/#.XuZC80UzY2x>.

[15] *Tax and Fiscal Policy in Response to the Coronavirus Crisis: Strengthening Confidence and Resilience* (n 22) 5.

deadline, deferral of some tax payments, and deduction of fines/interest are also widely used to ease the burden of taxpayers.[16]

Each country has its financial capacity in providing stimulus to counter Covid-19 outbreak (See Figure 1). Australia responded with a massive fiscal stimulus and exercising its tax and transfer system to make payments to households and businesses.[17] The Australian government has been conducting jobseeker payment with relaxed income and asset test, extensive job keeper wage subsidy, providing funds to the childcare sector to avoid collapsing and transferring cash to the household.[18] The total economic support packages released by the Australian government is approximately 13.3% of annual GDP (represents fiscal and balance sheet support) and 6.9% of GDP (direct fiscal measures).[19]

The Singaporean government allocates 10.9% of total GDP. It consists of wage subsidies, cash transfer, layoff prevention assistance, cash transfers to households, strengthening of funding schemes, additional payment for unemployed, and a moratorium on debt payments for companies and affected individuals.[20]

The United States allocates a stimulus of 10.5% of the total GDP. The stimulus is in the form of one-time tax rebates for individual, vaccines development, paid sick leave, unemployment insurance, cash transfer, and loan facilities for Small Medium Enterprise.[21]

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[16] Ibid 17.
[17] Stewart and Whiteford (n 2).
[18] Scott Morrison, '$130 Billion JobKeeper Payment to Keep Australians in a Job | Prime Minister of Australia' (Web Page, 30 March 2020) <https://www.pm.gov.au/media/130-billion-jobkeeper-payment-keep-australians-job>.
[19] Treasury (Australia), 'Economic Response to the Coronavirus' (Web Page) <https://treasury.gov.au/coronavirus>.
[20] International Monetary Fund, 'Policy Responses to COVID19' (Web Page, 3 June 2020) <https://www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19>.
[21] Ibid.

Besides, Malaysia poured a stimulus fund of 10% of the total GDP. It is used for assistance to businesses and affected individuals such as wage subsidy, extended tax deferments for tourism industries and airlines, and local sales tax exemption.[22]

For Indonesia, the Minister of Finance explained that the government allocated 2.5% of total GDP to finance the Covid-19 stimulus. Some of the policies implemented include tax deferral for businesses, tax payment relaxation for MSMEs, and specific assistance to the business activities like faster VAT refund process and employment tax exemption payments.[23]

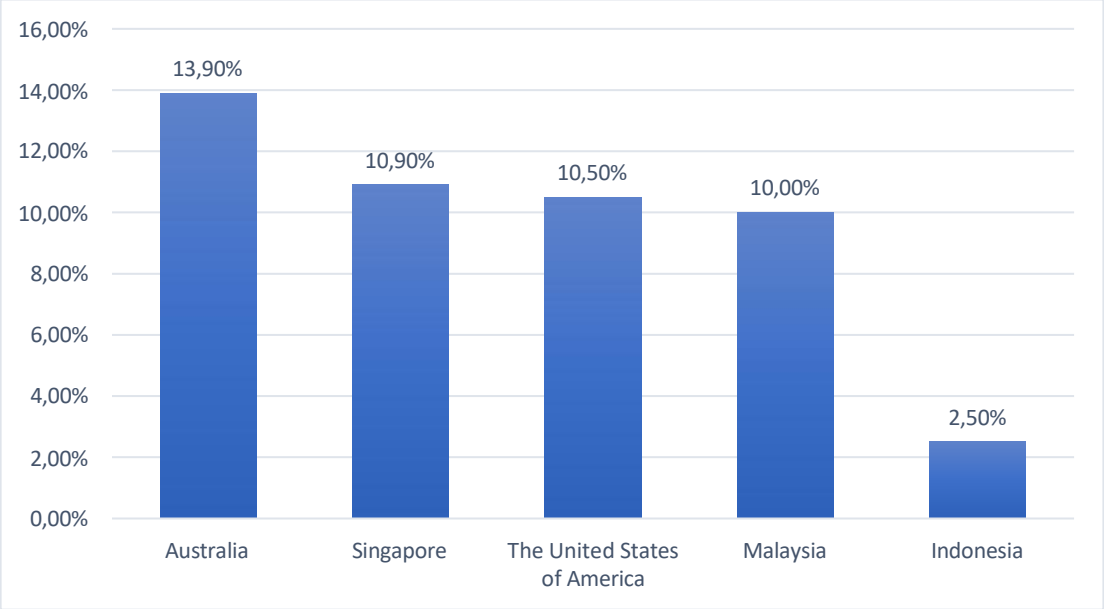


Figure 1. Global Fiscal Support to Counter the Covid-19 Outbreak[24]

From the global response comparison, it can be concluded that the measures taken by Indonesia are in line with other countries. Indonesia is even considered more progressive by reducing corporate income rates and applying

[22] Ibid.
[23] Ibid.
[24] Darussalam, Septriadi and Kristiaji (n 23) 32.

digital taxes where only a few countries do it and will be discussed later in chapter IV of this essay.

The crisis facing the world today is a combination of health and economic crises and is different from the crises in the previous period, such as the Great Depression.[25] This unprecedented event has led governments everywhere to face difficult policy choices between suppressing the spread of the Covid-19 case or saving the economy.[26]

Overcoming health and economic problems is equally important.[27] But some priorities must be done immediately.[28] In essence, what is needed now is the right combination of policies to deal with a pandemic and recession.[29] It should be started with public health policy to limit the Covid-19 transmission. Health comes first; after all, infected people are unable to carry out production activities, or if they are forced to work, the risk of transmission will be higher. IMF Managing Director Kristalina Georgieva also confirmed that

> *"First, continue with essential containment measures and support for health systems. Some say there is a trade-off between saving lives and saving livelihoods. I say it is a false dilemma. Given this is a pandemic crisis, defeating the virus and defending people's health are necessary for economic recovery,"*[30]

Then, fiscal and financial policies should be designed to maintain pressure on the economic system.[31] It is hoped that the impact of the pandemic

[25] Gopinath (n 19).
[26] Pierre-Olivier Gourinchas, 'Flattening the Pandemic and Recession Curves', *VoxEU.org* (Web Page, 3 June 2020) <https://voxeu.org/article/flattening-pandemic-and-recession-curves>.
[27] Ibid.
[28] Ibid.
[29] Ibid.
[30] Kristalina Georgieva and IMF Managing Director, 'Confronting the Crisis: Priorities for the Global Economy' (Speech, International Monetary Fund, 9 April 2020) <https://www.imf.org/en/News/Articles/2020/04/07/sp040920-SMs2020-Curtain-Raiser>.
[31] Ibid.

does not occur in the long term, and the stability of society and the economy can quickly recover after the pandemic ends.[32]

On 31 March 2020, the government issued an emergency regulation, namely Government Regulation in lieu of Law 1/2020 (Perppu 2020) on State Finance Policy and Stability of Financial System Stability to counter Covid-19 outbreak. The Perppu issued by the President can take effect immediately, and there is no need to wait for the House of Representative approval. The steps to issue this Perppu have been guaranteed by the Indonesian Constitution under the provision regarding state emergencies.[33] In that context, it appears that Perppu 2020 is not an extra-legal step and constitutionally sound.

The next procedure, Perppu must be ratified by the House of Representative to become a Law. If it is rejected by the House of Representative, then the Perppu must be revoked. On the contrary, if it is approved, then it will become a new law. in May 2020, The House of Representatives passed the Perppu to become a law, with Law Number 2/2020. By then, this regulation has become a complete law to run.

Initially, the issuance of Perppu 2020 to counter Covid-19 outbreak caused a polemic among the people. The government seemed rushed and wanted to take the opportunity to strengthen executive power in an urgent situation particularly the policy concerning the relaxation of the statutory budget-deficit limit.

Fiscal Rules Relaxation: Calling for Open Budget Agenda

The application of fiscal rules throughout the world is diverse from those which are strictly regulated by quantitative limits, up to providing guidelines to achieve fiscally prudent budgeting without quantitative approach.[34] What needs

[32] Gourinchas (n 63).
[33] Undang-Undang Dasar Negara Republik Indonesia 1945 [Constitution of the Republic of Indonesia 1945] (Indonesia) 18 August 1945, art 22.
[34] Alasdair Murray and Giles Wilkes, 'Fiscal Rules Ok' [2009] *CentreForum* 2.

to be taken into account is whether fiscal rules can be effectively applied in both normal situations and when a country is facing external shock as in the current era of Covid-19.

Indonesia enacts two types of strict fiscal rules, namely budget balance rule (budget deficit not more than 3% of GDP) and debt rule (debt to GDP ratio must be less than 60%).[35] These strict rules are regulated under Law Number 17 of 2003 (State Finance Law) to ensure that the government is implementing a disciplined behaviour in managing the state budget.[36]

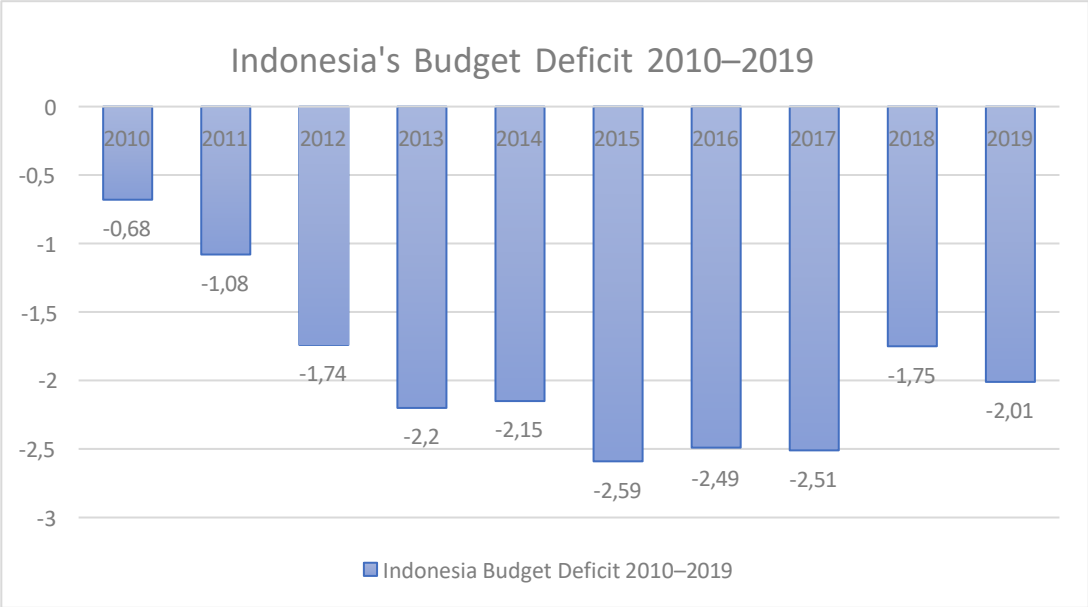


Figure 2. Indonesia's Budget Deficit 2010–2019[37]

Before the Covid-19, Indonesia's state budget experienced a deficit trend in the last nine years from 2015. That means government spending was higher than the state revenue. The average deficit of Indonesia is -1.92% of

[35] Undang-Undang Nomor 17 Tahun 2003 Tentang Keuangan Negara [State Finance Law Number 7 Year 2003] (Indonesia) 28 April 2003, art 12(3).
[36] Murray and Wilkes (n 77) 2.
[37] Boediastoeti Ontowirjo, 'Effectiveness and Challenges in the Implementation of Fiscal Rules in Indonesia' (Presentation, 24 April 2019).

GDP with economic growth of 5.6% while, Turkey, Mexico and Brazil have an average deficit of -2.1%, -3.3 % and -4.3% with economic growth of 4.8-%, 2.2% and 2.1%. Compared to countries with similar socio-economic characteristic, Indonesia's economic growth can grow relatively high with a low deficit. In other words, the additional debt to cover the deficit does not create sustainable problems when compared to the additional benefits that are obtained.

Indonesia's debt to GDP ratio in 2019 was 30.2% and declared as one of the countries with the lowest debt rate.[38] The current government debt ratio is still considered safe and far from the limit set in the State Finance Law. And the government always keeps the increase in debt or deficit does not exceed its safe limit every year.

The next question is, should Indonesia consider to continue these strict rules during the pandemic?

The Covid-19 pandemic halted almost all community and business activities. As a result, the country's income fell significantly, mainly influenced by slowing economic growth, falling prices of oil and commodity, and the existence of tax incentives for the business community.[39] Meanwhile, the need for state expenditures increased for the handling of Covid-19, especially for additional health stimulus, social safety net, and support for businesses and MSMEs.[40] With such conditions, a maximum limit of deficit of 3% of GDP is hard to be fulfilled. Allen Schick stated that:

> *Fiscal rules should have most of their bite when the economy is strong; if they do not, they may do much harm and little good when the economy is weak.*[41]

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[38] Ibid.
[39] University of Virginia School of Law, 'Project SAFE' (Web Page, 15 April 2020) <https://www.law.virginia.edu/academics/program/project-safe>.
[40] Stewart and Whiteford (n 2) (Web Page).
[41] Allen Schick, 'The Role of Fiscal Rules in Budgeting' (2003) 3(3) *OECD Journal on Budgeting* 7, 33.

Indonesian government finally decided to widen the deficit or to relax the state budget deficit policy to more than 3% without restrictions.[42] This law applies for three years period up to 2022 and back to strict fiscal rules policy following the State Finance Law in 2023. Widening budget deficits are needed to create fiscal space, a room that a government has with taxes and debt to respond quickly to public needs or for financing purpose so that handling the Covid-19 pandemic and its impact can be maximised.[43]

The government committed to widening the deficit up to 5.07% at the beginning of designing the distribution of stimulus packages. The excess spending should be funded by debt. However, collecting the tax during the crisis is inconceivable to rely on. The next questions could be, should Indonesia borrow to cover the budget deficit?

Borrowing, by governments, is an essential tool for covering short-term imbalances between revenues and expenditures.[44] It should be managed in a measured and careful manner by continuing to maintain sources of sustainable financing so that the debt ratio is maintained within the safe limits.[45] Indeed, the government cannot widen the deficit of its own accord or be misused to search for financing recklessly.

A deficit and debt that are too high will create bias, and be borne by the future government, and repeal the public trust.[46] The government can finance their activities through printing more money and use that money to purchase goods and services through a public system, but the risk of inflation awaits.

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[42] Peraturan Pemerintah Pengganti Undang-undang Nomor 1 2020 [Government Regulation in Lieu of Law number 1 2020] (Indonesia) 31 Maret 2020, art 2(2)(a). (*'Perppu 2020'*)
[43] Yariv Brauner and Miranda Stewart, *Tax, Law and Development* (Edward Elgar Publishing, 2013) 7.
[44] *Addis Ababa Action Agenda of the Third International Conference on Financing for Development*, GA Res 59/313, UN Doc A/RES/59/313 (17 August 2015, adopted 27 July 2015) para 93 (*'Addis Ababa Document'*).
[45] Ibid.
[46] Murray and Wilkes (n 77) 2.

Also, the government could get financial support from the international community—from international institutions and bilateral donors.

The next question is in what amount the Indonesian government should stop to borrow to be said as sustainable?

The government is committed to being disciplined and paying attention to good governance, even though the budget deficit limitation is not regulated any longer under the Perppu 2020. This flexibility could lead to a larger amount of borrowing to cover the deficit. The commitment contained in Article 12 (1) of the Perppu 2020 is as follows:

> *(1) The implementation of the state financial policy… shall be carried out with good governance.*

Unfortunately, there is no detailed explanation of what good governance is. What will the government do to ensure that the spending is managed sustainably and fairly?

During the pandemic, budget transparency is not a priority and even almost forgotten for most countries, including Indonesia.[47] Ideally, during the emergency status, the Indonesian government should be timelier in issuing budget documents, provide detailed explanations related to the government's financial position, and would be better paired with public debates about budget priorities.[48]

[47] Stewart and Wong (n 93).
[48] Ibid.

Considering the statement of Miranda Stewart:

> *"Moving the budget to facilitate an emergency response was the right move but that emergency response is mostly being done by dramatically increasing executive power."*[49]

That statement is extremely relevant to the recent situation where Indonesian executive body has been attached with more substantial power in managing state finances mainly related to changing budgetary arrangements in a fast manner to counter the Covid-19 outbreak. For example reallocating non-urgent spending, such as the budget for relocating new capital cities transferred to build new hospitals.[50]

The Indonesian government should consider to establish Legislative Budget Office or called as Independent Fiscal Institution (IFI).[51] This type of institution is separate from but attached to the government to achieve more transparency in the budget process.[52] This institution is an office of economists and budget experts to give advice and analysis to parliamentarians on central issues related to the budget activities.[53] Having an independent budget office brings Indonesia to a higher degree of neutrality and analytic rigour into the budget process.[54] In most countries, Ministries of Finances and Treasuries are the state machinery for budgeting.[55] Meanwhile, they work closely with the

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[49] Miranda Stewart, 'Shifting Attention to the Economic Consequences of COVID-19' (Web page) <https://www.ceda.com.au/News-and-analysis/CEDA-Events/Shifting-attention-to-the-economic-consequences-of-COVID-19>.
[50] Gayatri Suroyo, 'Indonesia's Capital Relocation on Hold, Shifts Budget to Fight Pandemic', *Reuters* (Online, 24 April 2020) <https://www.reuters.com/article/us-health-coronavirus-indonesia-capital-idUSKCN2260L7>.
[51] Usman W Chohan, 'Should Indonesia Establish a Legislative Budget Office?', *The Conversation* (Web Page, 20 November 2020) <http://theconversation.com/should-indonesia-establish-a-legislative-budget-office-86848>.
[52] Chohan (n 103).
[53] Usman W Chohan, 'Independent Budget Offices and the Politics–Administration Dichotomy' (2018) 41(12) *International Journal of Public Administration* 1009, 1009.
[54] Chohan (n 103).
[55] Chohan (n 106).

elected government, which could increase the risk of partisanship.[56] Then, a legislative budget office as an independent institution exists to avoid partiality by offering a 'second data point' so that the level of accountability and transparency in the budget process can be increased.[57]

III CONCLUSION

In a different point of view, Covid-19 should not always be labelled as a destructor. The government needs to raise more revenue to cover the debt and to fund the economic recovery caused by the Covid-19.[58] To anticipate, Indonesia may need to reform the income tax, VAT, and corporate tax regulation by closing the loophole to stop tax evasion from extending.[59]

In fact, by the presence of this virus, the government of Indonesia has become more aware of how important resilience tax systems and transparent budget processes are in dealing with unexpected problems as we are facing today.[60] This moment could also become a key factor in realising suggestions from the open budget agenda related to the establishment of the Independent Fiscal Institutions / Legislative Budget Office to create more transparent and sustainable budget processes in Indonesia.[61]

Lastly, there is a far more critical meaning regarding the role of taxation in facing the Covid-19 crisis. The government reacts quickly to shift the tax paradigm, from revenue function to regulating function. There is a willingness to sacrifice tax revenue to stabilise economic conditions. In the current situation, the government should work side-by-side with society and ensure that the economy must return to normal to rebuild tax revenues in the future.[62]

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[56] Ibid.
[57] Ibid.
[58] Stewart and Whiteford (n 2).
[59] The University of Melbourne, *COVID-19: How Will Australia Pay for Its Response?* (YouTube, 14 April 2020) 06:38-06:43 <https://www.youtube.com/watch?v=_AUKrGUFIj4>.
[60] Stewart et al (n 113) 9.
[61] Chohan (n 103).
[62] Ibid 06:10-06:16.

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